IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20363 of 2007(Y)

PETITIONER:

K.V.KUNHIBI, W/O.C.P.MOHAMMED KOYA,
PROPRIETOR, MADEENA WOOD INDUSTRIES, 19/1699,
EAST KALLAI, KOZHIKODE.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE SECRETARY TO REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOZHIKODE DISTRICT.

3. THE DEPUTY COLLECTOR (L.A.), KOZHIKODE DISTRICT.

ADDL. 4. THE TAHSILDAR, KOZHIKODE TALUK
(IMPLEADED AS PER ORDER IN I.A.NO.9050/07 DATED 05.07.2007)

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.20363 OF 2007

DATED THIS THE 5th DAY OF JULY, 2007

JUDGMENT

The petitioner challenges Ext.P7 notice by which the petitioner has been directed to vacate the properties mentioned therein on the ground that the petitioner has encroached into Government land. The petitioner on the strength of the title deeds produced by her submits that the property belongs absolutely to her and she has not encroached into any Government land. The petitioner further submits that before issuing Ext.P7 notice she has not been given a notice and an opportunity of hearing and therefore Ext.P7 is also violative of principles of natural justice.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P7 has been preceded by a notice and hearing as contemplated under the Kerala Land Conservancy and Rules. Ext.P7 is also devoid of any reasons as to why the emergency provisions under the Kerala Land Conservancy Act and Rules is to be invoked. Therefore evidently Ext.P7 is issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P7 is treated

as a show cause notice, it may not be necessary to quash the same. Accordingly, the writ petition is disposed of with the following directions.

I direct the Tahsildar, who has issued Ext.P7 notice to treat the same as a show cause notice. The petitioner has already filed Ext.P8 objections to the same. The Tahsildar shall afford an opportunity of being heard to the petitioner which shall include an opportunity to adduce evidence also. Thereafter the Tahsildar shall pass a speaking order considering the contentions of the petitioner in the light of the evidence to be produced by the petitioner. Till orders are thus passed and communicated to the petitioner, she shall not be evicted from the property in question.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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